

The Honorable James L. Robart

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

THE INSTITUTE OF CETACEAN  
RESEARCH, a Japanese research  
foundation; KYODO SENPAKU  
KAISHA, LTD., a Japanese corporation;  
TOMOYUKI OGAWA, an individual; and  
TOSHIYUKI MIURA, an individual,

Plaintiffs,

v.

SEA SHEPHERD CONSERVATION  
SOCIETY, an Oregon nonprofit  
corporation, and PAUL WATSON, an  
individual,

Defendants.

SEA SHEPHERD CONSERVATION  
SOCIETY, an Oregon nonprofit  
corporation,

Counterplaintiff,

v.

THE INSTITUTE OF CETACEAN  
RESEARCH, a Japanese research  
foundation; KYODO SENPAKU  
KAISHA, LTD., a Japanese corporation;  
and HIROYUKI KOMURA, an individual,

Counterdefendants.

No. C11-2043JLR

[PROPOSED] ORDER GRANTING  
PLAINTIFFS THE INSTITUTE OF  
CETACEAN RESEARCH,  
KYODO SENPAKU KAISHA, LTD.,  
AND TOMOYUKI OGAWA'S MOTION TO  
LIFT STAY AND FOR REMEDIAL  
SANCTIONS FOR CONTEMPT

ORDER GRANTING PLAINTIFFS THE INSTITUTE OF  
CETACEAN RESEARCH, KYODO SENPAKU KAISHA, LTD.,  
AND TOMOYUKI OGAWA'S MOTION TO LIFT STAY AND  
FOR REMEDIAL SANCTIONS FOR CONTEMPT - 1  
(C11-2043JLR)

1           The motion to lift stay and for remedial sanctions for contempt filed by plaintiffs  
2   The Institute of Cetacean Research, Kyodo Senpaku Kaisha, Ltd., and Tomoyuki Ogawa  
3   ("Plaintiffs") came before the Court on \_\_\_\_\_, 2015.

4           Based on the record and files herein, including the declarations, arguments of  
5   counsel, and evidence admitted at the hearing, as well as the December 19, 2014, Ninth Circuit  
6   Opinion on a Motion for Contempt (9th Cir. Dkt. No. 360), holding defendants Sea Shepherd  
7   Conservation Society ("SSCS") and Paul Watson ("Watson") and the now former directors of  
8   SSCS (Lani Blazier, Marnie Gaede, Bob Talbot, Robert Wintner, Ben Zuckerman, and  
9   Peter Rieman, individually and collectively, the "Former Directors") in contempt, the Court finds  
10   and ORDERS that:

11           (1)    Plaintiffs' motion to lift stay of this case is GRANTED.

12           (2)    Plaintiffs' motion for an order of remedial sanctions for contempt is  
13   GRANTED as follows:

14           (a)    Each Former Director is fined the sum of \$500,000 payable to the  
15   Court. The fine is suspended as to each Former Director so long as that individual  
16   complies with the preliminary injunction order issued December 17, 2012, by the  
17   Ninth Circuit (9th Cir. Dkt. No. 31; W.D. Wash. Dkt. No. 118) ("Injunction"). Should a  
18   Former Director violate the Injunction, then the person violating shall immediately pay  
19   \$500,000 to the Court.

20           (b)    SSCS is fined the sum of \$2,000,000 payable to the Court. SSCS  
21   shall post a bond for the benefit of the Court in that amount by a qualified surety within  
22   10 days of entry of this Order. The fine is suspended, provided that SSCS complies with  
23   the Injunction, does not encourage, support, induce, or incite others to violate the  
24   Injunction, and, in addition, exercises all good-faith effort to:

25           (i)    promptly secure SSCS's control over the vessels

26           *Bob Barker, Brigitte Bardot, Sam Simon, and Steve Irwin, including but not*

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1 limited to enforcing all legal rights SSCS has as respects possession or control of  
 2 those vessels and their respective ancillary equipment, including but not limited to  
 3 such rights that exist under the following documents:

4 (A) January 2013 grant agreement from SSCS to  
 5 Sea Shepherd Australia Limited ("SSAL") (grant of equipment aboard  
 6 *Brigitte Bardot*);

7 (B) January 12, 2013, grant agreement from SSCS to  
 8 Stichting Sea Shepherd Conservation Society ("SSN") (grant of equipment  
 9 aboard *Steve Irwin*);

10 (C) January 12, 2013, grant agreement from SSCS to  
 11 SSN (grant of *Bob Barker*);

12 (D) October 4, 2012, agreement for transfer and grant of  
 13 vessel between SSAL, SSCS, and New Atlantis Ventures, LLC (grant of  
 14 *Sam Simon*);

15 (E) December 21, 2010, grant agreement from SSCS to  
 16 SSAL (grant of *Brigitte Bardot*); and

17 (F) March 9, 2012, deed of transfer for *Steve Irwin*.

18 (c) Good-faith effort shall include, if necessary, the commencement  
 19 and enforcement of lawsuits seeking possession and control of the vessels and equipment  
 20 against anyone exercising possession or control over them. By way of example only, if  
 21 the *Bob Barker* is not returned to SSCS's possession and control in response to its  
 22 request, then SSCS shall immediately initiate legal proceedings to secure that possession  
 23 and control. If Peter Hammarstedt (or any other person) is in command or control of  
 24 *Bob Barker* and he (or she) refuses to surrender possession and control of *Bob Barker* to  
 25 SSCS, then SSCS shall initiate appropriate civil or criminal proceedings against  
 26

1 Mr. Hammarstedt (or such other person) in order to remove him (or her) from control or  
2 command of *Bob Barker*.

3 (d) Watson is fined the sum of \$2,000,000 payable to the Court. The  
4 fine is suspended, provided that:

5 (i) Watson complies with the Injunction;

6 (ii) Watson does not encourage, support, induce, or incite  
7 others to violate the Injunction; and

8 (iii) Watson exerts good-faith effort to assist SSCS in  
9 complying with its obligations set forth in (b) and (c) above.

10 (e) Defendants shall report to the Court within 14 days of issuance of  
11 this Order of the steps they have undertaken and will undertake to comply with this Order  
12 and shall similarly report thereafter upon request of Plaintiffs or the Court.

13 (f) Defendants shall pay Plaintiffs their reasonable expenses,  
14 including attorney fees, in monitoring or securing compliance with this Order. Such  
15 expenses shall be paid quarterly by defendants upon Plaintiffs' submission of appropriate  
16 documentation seeking reimbursement. The Court will resolve any disputes regarding  
17 payment.

18 (g) Should the remedies set forth herein be insufficient to remedy the  
19 contempt of the Former Directors and the defendants, and to ensure future compliance  
20 with the Injunction, then, for good cause shown, Plaintiffs may seek any additional  
21 appropriate remedy.

22 This Order shall be effective upon filing.

23 DATED this \_\_\_\_ day of \_\_\_\_\_, 2015.

24  
25 \_\_\_\_\_  
26 Honorable James L. Robart  
UNITED STATES DISTRICT JUDGE

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FOR REMEDIAL SANCTIONS FOR CONTEMPT - 4  
(C11-2043JLR)

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